IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 26179 OF 2007

Dated : December 7, 2007

Between:

M/s. Bell Ceramics Limited,
Plot No.36, Chandranagar Colony,
Rasoolpura, Secunderabad.

Petitioner

AND

The Assistant Commissioner (CT)-II,
Begumpet Division, Hyderabad and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 26179 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of mandamus, declaring action of the first respondent in insisting for payment of the disputed penalty and interest to the tune of Rs.4,89,768/- for the period of March and April, 2006 under A.P.V.A.T Act pending disposal of the appeal before the second respondent as illegal and arbitrary and to consequently restrain first respondent from taking any coercive steps for recovery thereof, the petitioner filed this writ petition.

The petitioner is registered dealer under the Andhra Pradesh Value Added Tax Act, 2005 and an assessee on the rolls of the first respondent and is engaged in the manufacture and sale of wall and floor Tiles. The petitioner was assessed for the period of March and April, 2006 by the first respondent on a turnover of Rs.30,67,919/-and was levied with the tax. Subsequently, after inspection, the first respondent issued notice proposing to levy tax, penalty and interest, to which the petitioner submitted elaborate reply. The first respondent, however, without considering the same, affirmed the proposed levy of tax, penalty and interest by order dated 22.6.2007. The petitioner paid the tax and aggrieved by the imposition of penalty and interest, carried the matter in Appeal being Appeal No.BV/25/2007-08 before the second respondent. Along with the Appeal, the

petitioner also filed stay petition, which was rejected by the second respondent vide proceedings dated 29.08.2007. Thereafter, the petitioner preferred a revision before the Additional Commissioner (CT), Legal, Hyderabad, which was also rejected by order dated 20.11.2007. Hence, the present writ petition.

Heard the learned counsel for the petitioner and the learned Special Standing Counsel for the respondents.

The controversy is that pending an appeal, application for stay was dismissed by the Competent Authority and revision preferred therefrom was also rejected. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending Appeal, subject to deposit of 1/4th of the liability. Therefore, we set aside the order of the Authority and direct that 1/4th of the penalty and interest shall be paid by the petitioner within a period of eight weeks from the date of receipt of a copy of this order. For such period, there shall be an unconditional stay and stay shall continue till disposal of the appeal, provided the amount is deposited within the stipulated time. The deposit of amount shall be without prejudice to the rights of the petitioner in appeal. If any amount has already been paid by the

petitioner, the same shall be given credit.

The writ petition is accordingly disposed of. No costs.

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T.MEENA KUMARI, J.

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G.ROHINI, J.

December 7, 2007
MAS.